

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF CORRECTION

103 CMR 420

CLASSIFICATION

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420.01 Purpose

The purpose of 103 CMR 420.00 is to establish rules and procedures which govern the Department of Correction inmate classification system. 103 CMR 420.00 is not intended to confer any procedural or substantive rights or any private cause of action not otherwise granted by state or federal law.

420.02 Statutory Authorization

103 CMR 420.00 is issued pursuant to M.G.L. Ch. 124 section 1 (c), (f), (g), (q) and M.G.L. Ch. 127 sec. 20, 49A, 97 and 97A.

420.03 **Cancellation**

103 CMR 420.00 cancels all previous department policy statements, bulletins, directives, orders, notices, rules or regulations regarding inmate classification.

420.04 **Applicability**

103 CMR 420.00 is applicable to all Department employees and to all inmates at state, county and federal correctional institutions who are serving a sentence imposed by the state of Massachusetts.

420.05 **Access to Regulations**

103 CMR 420.00 shall be maintained within the Central Policy File of the Department and will be accessible to all Department employees. A copy of the 103 CMR 420.00 shall also be maintained in each Superintendent's Central Policy File and at each inmate library.

420.06 **Definitions**

Associate Commissioner of Classification, Programs and Health Services - Commissioner's designee who is responsible for developing, implementing, and monitoring the inmate classification policy of the Department.

Classification - A system by which the security and program needs of each individual in the Department's custody is determined. These needs are regularly assessed and monitored.

Classification Board - A committee of institutional or departmental employees which makes recommendations to the Superintendent concerning an inmate's program participation or placement within the Department of Correction. Rules governing classification boards which review Department Segregation Unit cases can be found in 103 CMR 421, Department Segregation Units.

Classification Scoring Manual - A manual designed to assist classification staff in rating the security requirements and risk of all offenders within the Department of Correction.

Commissioner - Commissioner of Correction.

Commissioner's Designee - A Department of Correction manager who is authorized by the Commissioner to review classification board recommendations and to render final decisions for the Commissioner as the Commissioner's designee.

Correctional Facility - A state, county or contract correctional institution located within Massachusetts.

Correction Program Officer - A Department of Correction employee who collects information obtained through inmate interviews and available casework records, and who presents an oral and written summary of this information to classification boards. A correction program officer is also responsible for monitoring an inmate's participation and compliance with a program plan which has been recommended by a classification board.

Department - Department of Correction.

Departmental Review Board - A classification board appointed by the Commissioner in unusual or complex situations to review an inmate's case history and program needs and to make recommendations to the Commissioner regarding the inmate's classification.

Director of Classification Division - Program Manager who is responsible for developing standard classification procedures and criteria to be used in all state correctional facilities.

Emergency - A threat to the safety, security or orderly administration of a correctional institution or to the safety or security of staff, inmates, or other persons.

Higher Security Transfer - The transfer of an inmate to a correctional facility within Massachusetts whose custody is more secure. A transfer to an out of state or federal facility shall be considered a higher security transfer.

Lower Security Transfer - The transfer of an inmate to a correctional facility within Massachusetts whose custody is less secure. A transfer to a Massachusetts correctional facility with an equivalent custody level shall be considered a lower security transfer.

Objective, Point Based Classification - A system of rating variables in terms of severity or risk to determine the security level of every inmate in the Department of Correction.

Program Plan - A program or a series of programs recommended by the correction program officer to the classification board to address an inmate's programmatic needs.

Receiving Institution - The institution to which an inmate will be transferred upon approval by the Commissioner or his designee.

Reception Center - A Department of Correction facility or facilities designated by the Commissioner to receive newly committed inmates from the courts for the purpose of initial classification.

Sending Institution - The institution from which an inmate will be transferred upon approval by the Commissioner or his designee.

Superintendent - A Superintendent or Administrator of a state correctional facility, a director of a contract program, or an administrator of a county correctional facility.

Transfer - The act of moving an inmate from one correctional facility to another correctional facility within Massachusetts upon approval by the Commissioner or his designee. An inmate's movement to an out of state or federal facility shall be considered a transfer for purposes of CMR 420.00.

Working Day - Any day except Saturday, Sunday, or a Massachusetts legal holiday.

420.07 Classification System Goals and Objectives

The primary goal of the Massachusetts Department of Correction classification process is to provide a systematic means by which the security requirements and programmatic needs of inmates are assessed in relation

to Department rules and regulations, statutory requirements and available resources.

In the process of developing a comprehensive classification system the following objectives have been identified by the Department:

- 1) Rational methods of assessing the relative needs and risks of each individual inmate with assignment to appropriate agency resources utilizing an objective point based system.
- 2) Inmates to be placed in the most appropriate level of security required to ensure protection of the public, correctional staff, themselves and other inmates.
- 3) Centralized control, monitoring and evaluation of the process.
- 4) Enhancement of the potential for the inmate's reintegration to a successful, law abiding community life.
- 5) Involvement of the inmate in determining the nature and direction of individualized goals and a mechanism for appealing administrative decisions affecting the inmates.
- 6) The collection of factual and quantifiable data to facilitate research.

420.08 **Initial Classification Process**

Upon commitment to the Department of Correction, each inmate shall be admitted to a Reception Center where he or she will undergo an initial classification process.

The process will provide an opportunity for the Reception Center staff members to become acquainted with each inmate through individual assessment, testing, and structured interviews. As part of the process, each inmate should receive an oral and written orientation to the policies and program opportunities within the Department. The Reception Center staff shall monitor each inmate's adjustment closely, providing useful information and services to inmates in need. The initial classification process shall normally be completed within four weeks following admission to the Reception Center, (unless the receipt of verified data from the sentencing court has been delayed,) and shall include the following phases:

- 1) Intake - Within 24 hours of admission to a Reception Center an inmate shall be interviewed by a correction program officer to determine any immediate needs or concerns. Where an inmate is admitted on a weekend or holiday the inmate will be interviewed on the next working day. During the interview, the correction program officer will ask specific questions pertaining to the inmate's physical and mental well being, reporting any immediate needs to the appropriate personnel.
- 2) Orientation - Within 24 hours of admission to a Reception Center an inmate will be provided with written orientation materials. If the inmate is non-English speaking, a written and/or oral translation of this information shall be provided. Where a literacy problem exists, a staff member shall assist the inmate in comprehending the material. Completion of this phase of the process shall be documented by a statement that is signed and dated by the inmate and staff member.
- 3) Interviews - Within ten (10) working days of admission to a Reception Center, an inmate shall be assigned to a correction program officer, who will prepare and complete a written initial classification report on the inmate. The report shall contain information obtained from the correction program officer's initial interviews with the inmate, as well as observations and input from staff members who interact with the inmate during the initial classification process, including correction officers, teachers, psychologists, work supervisors, and administrators.

The correction program officer shall also gather all record information pertaining to the inmate, review and compare it with information obtained during the inmate interviews and summarize the information in the classification report. The record information shall include, but shall not be limited to, the superior court record, the pre-sentence report prepared by the Probation Department, the official version of the inmate's current offense, the Federal Bureau of Investigation Identifier and, when applicable, the inmate's prior Department of Correction case record.

- 4) Need Assessments - Based upon information obtained from the intake, subsequent interviews, and available record information, the correction program officer shall request that an inmate's need assessments be completed by program staff members specializing in particular need areas (e.g. education, vocational training, psychological services, substance abuse, or industrial programs). Once staff members have assessed an inmate's needs in particular areas, the results of those assessments shall be incorporated into the inmate's initial classification report by the correction program officer.
- 5) Initial Classification Board Hearing - To conclude the initial classification process, a classification board shall convene to make recommendations to the Superintendent concerning an inmate's placement. The recommendations shall be based upon a review of the inmate's objective point based rating, and all other information available relative to the inmate's security rating, institutional placement and program needs. The following standards shall be adhered to regarding the initial classification board process:
- (a) Board Composition - All classification boards shall be comprised of no less than three (3) correctional staff members appointed by the superintendent. Three members shall constitute a full board. One board member shall be designated by the superintendent to act as chairperson, and shall be responsible for the overall quality of the review process and for ensuring compliance with existing classification policies and procedures, in accordance with M.G.L. Ch. 127 sec. 20.

In a facility designated by the commissioner as maximum or medium one member shall be a correctional officer and in a facility designated by the commissioner as a community correctional facility, one member shall be an employee of the department whose primary role includes security responsibilities.

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- (b) Notice of Hearing - The inmate shall be

notified orally forty-eight (48) hours in advance of the scheduled classification hearing. Prior to the classification hearing, an inmate shall be interviewed by the assigned correction program officer to discuss all matters relevant to the inmate's program plan and custody status.

- (c) Case Presentation - The inmate's assigned correction program officer shall make a comprehensive oral and/or written presentation to the classification board, summarizing the inmate's prior history, present adjustment, current needs, program plans and objective point based rating.
- (d) Inmate Presentation - Following the correction program officers presentation, the inmate scheduled for review shall appear before the classification board to present any needs and program goals for consideration. In the event that the inmate is unable or unwilling to attend the classification board hearing, the Chairperson of the board shall, in the absence of justifiable reasons for the inmate's failure to attend, proceed with the hearing.
- (e) Classification Board Recommendation - Once all relevant information is presented to the classification board, the Chairperson shall direct the inmate to leave the hearing room so that the board may deliberate. The board's final recommendation to the Superintendent concerning the inmate's placement and program within the correctional system shall be determined by a majority vote. Each board member, including the Chairperson, shall have one equal vote. The board's recommendation and reasons for a minority vote shall be recorded in the Chairperson's written summary report. The inmate shall be notified verbally of all board recommendations.
- (f) The Classification Board Summary - At the end of the classification board hearing a written summary of the board's recommendation to the Superintendent shall be prepared by the Chairperson. The summary shall contain, but shall not be limited to, the board's

recommendation concerning the inmate's placement, the inmate's program plan, and the date that the inmate's case will be reviewed again. All summaries of board recommendations must be signed by the board Chairperson and the inmate being reviewed, unless the inmate refuses to sign, in which case such refusal shall be documented. A copy of the summary and related materials shall be submitted to the Superintendent within ten (10) working days of the close of the hearing.

- (g) Superintendent's Review - Within ten (10) working days after receipt of the classification board's recommendation concerning an inmate's placement and program within the correctional system, the Superintendent or his designee shall render a decision concerning the inmate's classification.
- (h) Inmate Appeal - Where an inmate is not in agreement with any classification board recommendation, the inmate may submit a written appeal of the classification board's recommendation to the Superintendent within five (5) working days of oral notification of the board's recommendation (Attachment I).

The Superintendent or designee shall review the classification materials with any appeal submitted and render a decision within ten (10) working days. Appeal results should be written on the classification board's written summary of the recommendations.

- (i) Central Office Review - To finalize the classification process, the Superintendent's decision concerning an inmate's classification shall be submitted for approval to the Commissioner or his designee.

Where an inmate is not in agreement with the final decision rendered by the Commissioner's office, an appeal form will be completed by the inmate and forwarded to assigned institutional personnel. The institution will address pertinent information requested on the appeal form and forward same to the Commissioner's office for final decision.

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Subsequent classification hearings serve to monitor the inmate's security rating and compliance with any program plan recommended. The inmate's adjustment, adherence to rules and regulations and rating via the objective point based scale will be reviewed and adjustments made accordingly. The inmate shall periodically meet with subsequent classification boards to discuss progress and to express current needs within the correctional system.

Specific standards for subsequent classification board hearings shall include the following:

1. Each inmate's case shall be reviewed at least once every six months subsequent to initial classification. Such reviews shall be conducted in accordance with 103 CMR 420.08 (5) (a) through (h). Inmates who are held in jurisdictions outside Massachusetts (out of State or Federal Bureau of Prisons) will be reviewed regularly by a classification committee in absentia. As such, 420.08 5(b) and (d) will not apply.

(a) A thorough review of an inmate's criminal history must be conducted at the time of each classification review. At this time, the assigned correction program officer must verify if collection of a DNA sample, is required pursuant to M.G.L. Ch. 22E, sec. 3. If such sample is required, the assigned correction program officer will verify if the sample has been collected. This verification shall be noted on the classification form under the legal section. The notation on the classification board shall be one of the following:

DNA sample required, secured.

DNA sample required, not secured, _____.
(Explain)

DNA sample not required as of _____.
(Date)

Particular attention must be paid to outstanding legal issues. Outstanding legal issues must be monitored until resolved. When the legal issue(s) is/are resolved, the assigned correction program officer must re-evaluate the inmate's criminal history to determine if a DNA sample must be collected.

2. (a) A classification hearing shall normally occur before an inmate's transfer. However, whenever an inmate is being considered for a transfer to a Massachusetts correctional facility with an equivalent custody level because he is being investigated for possible

disciplinary offenses, has been charged with a disciplinary offense, or has been found guilty of a disciplinary offense; or because of security issues; or due to the inmate's failure to meet preconditions of the current placement, the inmate may be transferred prior to such hearing. In the case of such a pre-hearing transfer, the transfer must be approved by the Commissioner or his designee prior to its occurrence.

- (b) A hearing shall normally be held within twenty (20) working days of such a transfer. However, where an investigation is pending or information necessary to the classification decision is otherwise unavailable due to ongoing administrative processes, the hearing shall initially consist only of an evaluation of the inmate's security requirements and

programmatic needs. A full hearing in accordance with 103 CMR 420.08 (5) (a) through (I) shall be held within ten (10) working days of completion of the disciplinary investigation and/or compilation of all necessary information.

3. In instances where an inmate arrives at the designated facility and is unable to comply with institutional rules or participate in programming, the Commissioner or designee can modify the last classification report to an alternate facility providing that the following occurs:
 - a) The inmate has not received any type of disciplinary report;
 - b) The inmate's classification material must be current and no more than sixty (60) days old;
 - c) The security rating must remain the same (i.e., lateral transfer), and;
 - d) The inmate must be notified orally of the modification by institutional personnel prior to any transfer.
4. (a) Whenever an inmate is considered for transfer to a higher security facility because the inmate is being investigated for possible disciplinary offenses, has been charged with a disciplinary offense, or because of security issues; or due to the inmate's failure to meet preconditions of the current placement, the inmate shall be afforded a classification hearing. Such hearings shall normally occur before the inmate's transfer. However, an inmate may be transferred to a higher security placement prior to such hearing should security needs so dictate; or because an inmate is being investigated for, or has been charged with, or has been found guilty of, a disciplinary offense. In the case of such a pre-hearing transfer, the transfer must be approved by the Commissioner or his designee prior to its occurrence.

- (b) A hearing shall be held within twenty (20) working days of such a transfer. However, where a disciplinary investigation is pending or information necessary to the classification decision is otherwise unavailable due to ongoing administrative processes, the hearing shall initially consist only of an evaluation of the inmate's security requirements and programmatic needs. Within ten (10) working days of completion of the disciplinary investigation and/or compilation of all necessary information, a full hearing shall be held in accordance with the procedure set forth in 103 CMR 420.08 (5) (a) through (I). In addition to such procedure, the following standards shall be adhered to:
- (1) The inmate shall be provided with at least forty-eight (48) hours advance written notice prior to the classification hearing. Such notice may be waived by the inmate in writing. The notice shall contain a description of the board, the reasons for the hearing, procedures to be followed at the hearing, and a listing of the time and place for the hearing.
 - (2) The inmate may be represented by an attorney or law student at the hearing. It is the inmate's responsibility to secure such representation and the Department shall afford the opportunity to do so. The Department may, but is under no obligation to, reschedule a hearing to accommodate the legal representative's schedule.
 - (3) The Chairperson shall direct questions to the inmate who must respond to all questions directly during the course of the hearing, whether or not the legal representative is present. The legal representative will be allowed to make a presentation to the board members for their consideration. Legal representatives shall be directed by the Chairperson to leave the hearing room with the inmate when the board deliberates and votes on the case.

- (4) An inmate may request a subsequent classification board hearing prior to a scheduled review. The inmate shall make the request to the correction program officer stating the reason(s) for the requested review. The correction program officer shall present the request to the Superintendent or his designee who shall make a determination as to whether or not an early review shall be scheduled. Lower security transfers, except those governed by 103 CMR 420.09 (2) (a) and (b), shall be preceded by a hearing conducted in accordance with 103 CMR 420.08 (5) (a) through (I).
- (5) Prior to a scheduled parole hearing, any and all information held by the classification unit at the institution, in which the inmate resides, shall be shared and made available to the parole authorities.

420.10 **Department Review Board**

A Department Review Board is a classification board that may be convened in unusual or complex situations to review and make recommendations regarding an inmate's classification or placement to the Commissioner. Instances in which the board might be convened include, but are not limited to, the following: to classify inmates who present difficult placement issues; to address inmates with special needs, or to review cases of inmates who present threats to the safety and/or security of themselves, staff and/or other inmates. In addition to the procedures set forth in 103 CMR 420.08 (5) (a) through (I) and 420.09 (4) (b) (1-4), all Department Review Boards shall adhere to the following procedures:

- (a) Members of each Department Review Board shall be appointed by the Commissioner.
- (b) All recommendations of the Department Review Board shall be forwarded directly to the Commissioner who will render a final decision regarding the inmate's classification or placement.
- (c) Within five (5) working days of the Department Review Board's oral notification of its recommendation to an inmate, the inmate may submit a written appeal of the recommendation directly to

the Commissioner. The Commissioner shall respond to any inmate appeal in writing within ten (10) working days, noting the result of the appeal. Results of the appeal shall normally be written on the Department Review Board's written summary to the Commissioner.

420.11 **Administrative Procedures**

Upon receipt of the Commissioner's or his designee's decision with regard to an inmate transfer, the Superintendent of the receiving or sending institution may request within five (5) working days, that the Commissioner reconsider his decision. Within ten (10) working days of receipt of the Superintendent's appeal and following a review of all relevant information, the Commissioner or his designee shall re-affirm or modify the classification decision under appeal.

420.12 **Time Limits**

All procedural time limits set forth 103 CMR 420.00 are directory and may be waived by the Superintendent or the Commissioner or their designee.

420.13 **Inmate Transfer**

Whenever an inmate has been approved for transfer through the appropriate classification process, the inmate shall be transferred in accordance with 103 DOC 461, Inmate Transfer Policy. Nothing in 103 CMR 420.00 is intended to limit, in any way, the discretion of the Commissioner to transfer an inmate pursuant to M.G.L. Ch. 127, Sec. 97A, or other applicable laws.

420.14 **Institutional Classification Procedure**

Within ninety (90) days after the promulgation of 103 CMR 420.00, each Superintendent shall submit an Institutional Classification Procedure to the Associate Commissioner of Programs and Treatment for review and approval. The Institutional Classification Procedure shall provide a model for the operation of all phases of classification within the institution. Once the procedure is approved by the Associate Commissioner, the Superintendent shall be responsible for its implementation. The procedure shall include, but not be limited to, the following areas: intake and assessment, classification board hearings, classification reports, notification, appeals, staff interaction and record keeping.

420.15 **Emergency**

Whenever in the opinion of the Commissioner or his designee, or the Superintendent of a state correctional facility, an emergency exists which requires suspension of all or part of these regulations, the Commissioner or his designee or the Superintendent may authorize such suspension, provided that any suspension lasting more than forty-eight (48) hours must be approved by the Commissioner.

420.16 **Responsible Staff**

The Associate Commissioner of Programs and Treatment shall be responsible for implementing and monitoring 103 CMR 420.00 throughout the Department.

The superintendent of each correctional institution shall be responsible for the implementation of 103 CMR 420.00 within the institution and for the development of any and all necessary and appropriate institution policy and procedures within the parameters established by 103 CMR 420.00.

420.17 **Annual Review Date**

103 CMR 420.00 shall be reviewed at least annually from the effective date by the Associate Commissioner of Classification, Programs and Health Services or his/her designee. The party or parties conducting the review shall develop a memorandum to the Commissioner with a copy to the central policy file indicating that the review has been completed. Recommendations for revisions, additions or deletions shall be included.

420.18 **Severability Clause**

If an article, section, subsection, sentence, clause or phrase of 103 CMR 420.00 is for any reason held to be unconstitutional, contrary to statute, in excess of the authority of the Commissioner, or otherwise inoperative, such decision shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of 103 CMR 420.00.

INMATE CLASSIFICATION APPEAL FORM

Inmate Name: _____
 Institution: _____

#

I wish to appeal a recent classification decision that was made on my behalf.

Date of Classification board:
 Class board recommended:
 Superintendents decision:
 Commissioner's decision:

I believe that I should be placed at:
 This decision is based on the following reasons:

 To be completed by Institutional personnel**

Inmate requests placement at:
 This request is: Supported _____ Not supported
 This request is based on:

 Superintendent/Designee Date

 To be completed by Commissioner's Office**

After careful review of all relevant classification material and recommendations, the final placement decision is:

This decision is based upon:

 Commissioner Date

cc: Inmate
 Institution
 Classification
 Central Records

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